

From: Rich Schaefer
To: Microsoft ATR
Date: 11/16/01 12:14pm
Subject: The DOJ is wrong with in this case.

To whom it may concern:

I don't know where to begin. I am a republican. I work for a computer distribution company, voted for Bush, am all for capitalism and our way of life. However, it is clear that this Department of Justice is just out of touch with the real issue of this case.

This was not a case about web browsers. It is a case about a company that enjoys a monopoly status, has clearly abused it and as a result has eliminated any competition and innovation. This all has come at the expense of the American consumer and fair competition in an open market economy.

There is little doubt that Microsoft is a monopoly. Two courts have already rendered this in their opinions. If one visits a retail store and buys an IBM compatible computer, there is no choice regarding the operating system. You will buy a computer with a Microsoft operating system.

If I recall my college days as a political science major, the Sherman Anti-Trust Act was signed into law to prevent any one company from having an unfair advantage. Further, the core of this act was to ensure competition in the market place. The logic is competition benefits the consumer, establishes fair pricing and a market value for a product or service as well as the natural creation of new companies/industries and thus more jobs. The overriding goal is a diverse market place operating under a diverse economy while keeping America gainfully employed and spending back into the economy.

Thus, all benefit. It appears the DOJ attorneys should crack open a Constitutional Law text and brush over the fine points of the Sherman Anti-Trust Act, it's impact upon commerce and it's application to the present, as this may have been forgotten.

How is this hurting competition and consumers? Microsoft as a monopoly is free to charge whatever they want for their operating systems and applications. And this they do. Microsoft distributes it's product three ways; by selling to

name brand computer manufacturers, through "channel" distribution and finally in retail outlets. Name brand computer manufacturers (Dell, Compaq, IBM, Toshiba, etc) pay about one third less for operating systems and application software than a channel distributor, like Tech Data, Ingram Micro, ASI or D&H, even though name brand manufacturers and channel distributors are purchasing roughly the same number of operating systems and application software from Microsoft. This unfair and predatory pricing policy Microsoft maintains is unfairly exploiting the consumer by ultimately charging them substantially more. This pricing scheme is ultimately putting small distributors and independent businessmen and women out of business. Quite frankly, they cannot compete with name brand products because of the outrageous prices they are forced to pay for the same operating systems and applications, being purchased by channel distribution in the same volume as name brand companies.

If anyone has been paying attention, they would have realized that many independent computer resellers have had no choice but to close their doors this year because they cannot compete. Even in bid situations, where the federal and state governments, are supposed to show favor to the "small, minority owned, disadvantaged business," these very people cannot fairly compete because of the inflated prices they must pay for Microsoft operating systems and applications.

I say to you that these monopolistic behaviors on the part of Microsoft have a ripple effect through out the entire industry. As a result, the backbone of the American economy, the small businessman, is being destroyed. It is hard to fathom the DOJ not opening their eyes and seeing reality.

I find it equally hard to understand that, under normal circumstances, when a company manufactures a product, they are in liable and responsible for it's support. However, Microsoft totally avoids this responsibility. Instead, they force the hardware manufacturer to do this for them. For example, if I own a computer (and I do) and have problems with the operating system, why is it I am forced to get support from my hardware vendor? My hardware vendor did not make the operating system. They are responsible for

the hardware. Instead, if I must turn to Microsoft, who has the tenacity to call me a customer, for technical support they will promptly ask me for a credit card number before I can even speak to a technician. This is Microsoft's standard operating procedure. It is yet another example of them taking advantage of their monopoly status and the consumer being hurt by it. Microsoft is set up to collect money and little else.

On top of that, Microsoft's paranoid history is one of wreckage. Any company that ever developed a product that Microsoft saw as a real or imagined threat, that company was either swallowed or put out of business. Microsoft used their monopoly leverage and lack of competition in the operating environment arena to destroy the problem. Untold product innovations have been destroyed before they were even imagined. Untold fortunes were never realized and an untold number of high paying, rewarding jobs for the American economy were never realized. Consumers and technical innovation have again been compromised by monopolistic behavior.

This Department of Justice and John Ashcroft should be ashamed of themselves. The bottom line is this whole fiasco will return to federal court a few years down the road. It will make this administration look primitive and out of touch with today's business and legal climate. It is clear that this administration's DOJ is clearly in over it's head with respect to subject matter of information technology.

Respectfully,

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